

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Our Ref: 1038-844 MIS:ja

#  
14  
Linda  
5/9/01

In re patent application

No.

09/210,995

Applicant:

Sheena M. Loosmore et al

Title:



MULTI-COMPONENT VACCINE COMPRISING AT  
LEAST TWO ANTIGENS FROM HAEMOPHILUS  
INFLUENZAE TO PROTECT AGAINST DISEASE

Filed:

December 15, 1998

**RECEIVED**

Group No.

1641

Examiner:

J. Hines

FEB 06 2001

TECH CENTER 1600/2900

January 31, 2001

**AMENDED PETITION TO REVIVE AN UNINTENTIONALLY  
ABANDONED APPLICATION UNDER 37 CFR 1.137 (b)**

**BY COURIER**

The Commissioner of Patents  
and Trademarks,  
BOX AF,  
Washington, D.C. 20231,  
U.S.A.

Dear Sir:

Petition is hereby made under the provisions of 37 CFR 1.137(b) to  
revive this application to pending status pursuant to 37 CFR 1.137(b).

This application has been deemed abandoned apparently for failure to  
timely file a response to the Office Action of June 7, 2000. The Examiner noted in  
the communication of November 16, 2000, that a "proposed response" was received  
on October 16, 2000, but it does not constitute a proper response to the final  
rejection. The "proposed response" comprises an Amendment After Final Action  
and Appeal Brief submitted pursuant to applicants' Appeal from the Final Rejection  
dated October 14, 1999.

The Office Communication of June 7, 2000 is an Advisory Action with  
respect to Applicant's Request for Reconsideration received in the PTO on April 14,

2000. On the same day as forwarding the Request for Reconsideration by courier to the PTO, a Notice of Appeal, along with a cheque for the Appeal fee, were also forwarded to the Office. Having regard to a telephone conversation with the Examiner in charge of this application, it would appear that these latter materials are missing from the file, and it is the apparent absence of a timely filed Notice of Appeal which has lead to the abandonment.

A review by the undersigned of our records reveals that the return postcard that accompanied the Notice of Appeal and Appeal fee has not been returned and the cheque for the Appeal fee has not been cashed. Our courier records show a single package to have been forwarded to the Office on April 13, 2000, which, presumably, contained both the Request for Reconsideration and Notice of Appeal. Having regard to the absence of this Notice of Appeal from the file and the absence of cashing of the cheque, it would be presumed that these documents were separated from the Request for Reconsideration in the PTO and have been mislaid.

Having regard to the above facts, the abandonment of this application is clearly unintentional. It is hereby stated, under the signature of the undersigned, that the entire delay in filing the required reply, i.e. the Notice of Appeal, from the due date for the reply until the filing of this Petition was unintentional.

In support of this Petition, submitted herewith are:

1. Notice of Appeal.
2. Cheque in the amount of the Petition Fee and Appeal Fee.

Having regard to the above, it is submitted that the Petition should be granted pursuant to 37 CFR 1.137(b) and the application returned to pending status.

Respectfully submitted,



M.I. Stewart  
Reg. No. 24,973

Toronto, Ontario, Canada,  
(416) 595-1155  
FAX No. (416) 595-1163

THE PTO did not receive the following  
listed item(s): a check of any fee  
2-2-01

# Sim & McBurney

Patent and Trade Mark Agents

330 University Avenue  
6th floor  
Toronto, Canada  
M5G 1R7

Telephone (416) 595-1155  
Fax (416) 595-1163

MICHAEL I. STEWART  
ROGER T. HUGHES, Q.C.  
TONI POLSON ASHTON  
JOHN H. WOODLEY  
KENNETH D. MCKAY  
BRENDA L. BOARDMAN  
TIMOTHY M. LOWMAN  
STEPHEN M. LANE  
ARTHUR B. RENAUD  
STEPHEN J. PERRY  
PATRICIA A. RAE  
DAVID A. RUSTON  
THOMAS T. RIEDER  
WARREN J. GALLOWAY  
JOHN N. ALLPORT  
STEVEN L. NEMETZ  
GILLIAN M. SMITH  
L.E. TRENT HORNE  
LOLA A. BARTOSZEWICZ

SENIOR CONSULTANT  
PETER W. MCBURNEY

TECHNICAL ASSISTANTS  
URSULA M. MCGUINNESS, PH.D.  
ROBERT C.T. LIANG, M.ENG.  
KIMBERLY A. MCMANUS, PH.D.  
PETER S. HARRISON, PH.D.  
LESLEY M. MORRISON, P.ENG., B.SC.MECH.

Please Quote  
Our ref.

1038-844 MIS:ja

Your ref.

239

Writer's Ext.

**BY COURIER**



January 31, 2001

The Commissioner of Patents  
and Trademarks,  
Washington, D.C. 20231  
U.S.A.

**RECEIVED**

FEB 06 2001

TECH CENTER 1600/2900

Dear Sirs:

Re: U. S. Patent Application No. 09/210,995  
Applicant: SHEENA M. LOOSEMORE ET AL  
Title: MULTI-COMPONENT VACCINE COMPRISING  
AT LEAST TWO ANTIGENS FROM  
HAEMOPHILUS INFLUENZAE TO PROTECT  
AGAINST DISEASE  
Filed: December 15, 1998 Group No. 1641

This correspondence follows up on the Petition to Revive under 37 CFR 1.137(b) forwarded January 18, 2001.

In the factual narrative contained in the second paragraph on page 1, last line, the correct date should be "October 14, 1999" and not "June 7, 2000". In addition, in the last paragraph on page 2, the initials "CFR:" have been omitted between "37" and "1.137(b)".

These errors are corrected in the enclosed Amendment Petition.

Yours very truly,

Michael I. Stewart  
Reg. No. 24,973

M. I. Stewart:ja  
Encl.